

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

WORCESTER DIVISION
2004 APR -b P 12: 20

SOLMETEX, INC.) Civil Action No.: 04-cv-40024-NMG
Plaintiff,) U.S. DISTRICT COURT
) DISTRICT OF MASS.
v.) Judge: Gorton
MAXIMUM SEPARATION) PROOF OF SERVICE ON
SYSTEMS, INC.) DEFENDANT MAXIMUM
) SEPARATION SYSTEMS, INC.
Defendant.)

Pursuant to Fed. R. Civ. P. 4(l), Plaintiff SolmeteX, Inc. effected service on Defendant Maximum Separation Systems, Inc. on or about March 15, 2004, in accordance with the provisions of the Convention On The Service Abroad Of Judicial And Extrajudicial Documents In Civil Or Commercial Matters. Verification of service on Defendant Maximum Separation Systems, Inc. is set forth in the Affidavit of Brett A. Schatz attached hereto as Exhibit A.

Respectfully submitted,

SOLMETEX, INC.

Dated: 5 April 2004

By:

Jonathan W. Fitch (168510)

jwf@sally-fitch.com

Kurt S. Kusiak (559254)

ksk@sally-fitch.com

Trial Attorneys for Plaintiff
Sally & Fitch

225 Franklin Street, 30th Floor
Boston, Massachusetts 02110-2804

Telephone: (617) 542-5542

Facsimile: (617) 542-1542

Of Counsel:

J. Robert Chambers (Ohio Reg. No. 0003942)

Bchambers@whepatent.com

Brett A. Schatz (Ohio Reg. No. 0072038)

Bschatz@whepatent.com

WOOD, HERRON & EVANS, L.L.P.

2700 Carew Tower, 441 Vine Street

Cincinnati, Ohio 45202

Telephone: (513) 241-2324

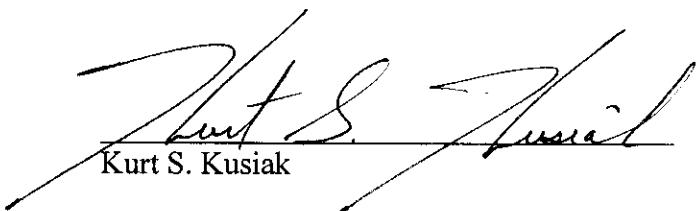
Facsimile: (513) 241-6234

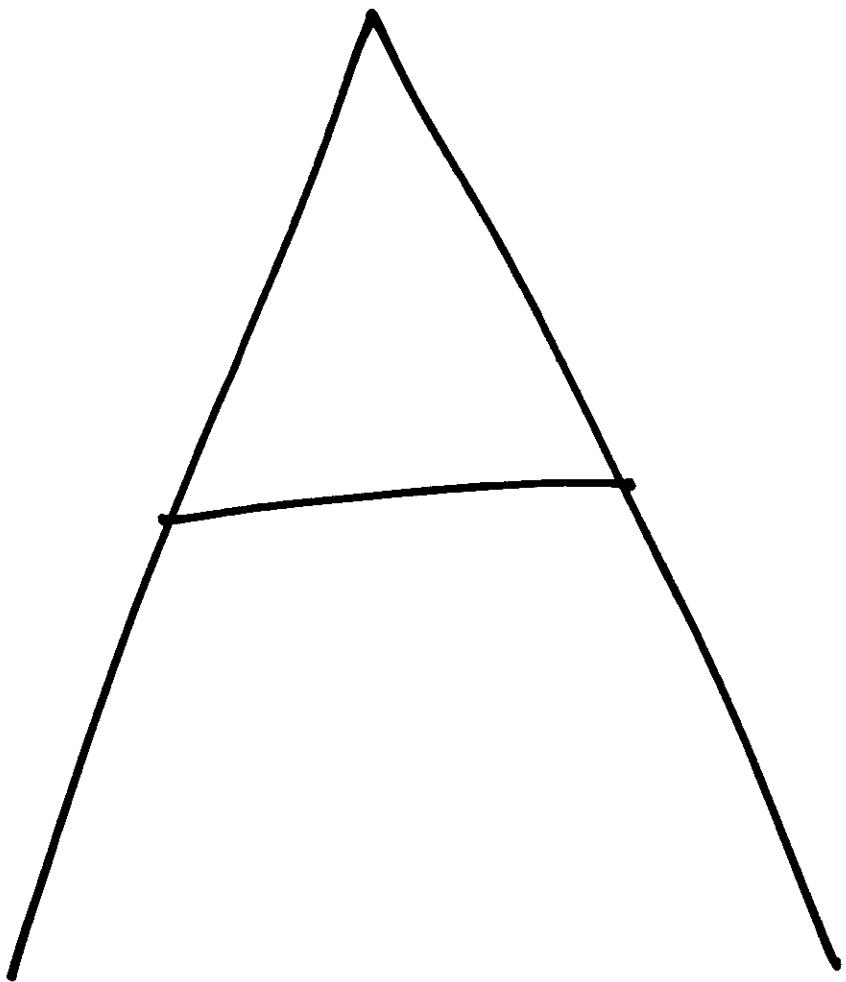
Attorneys for Plaintiff

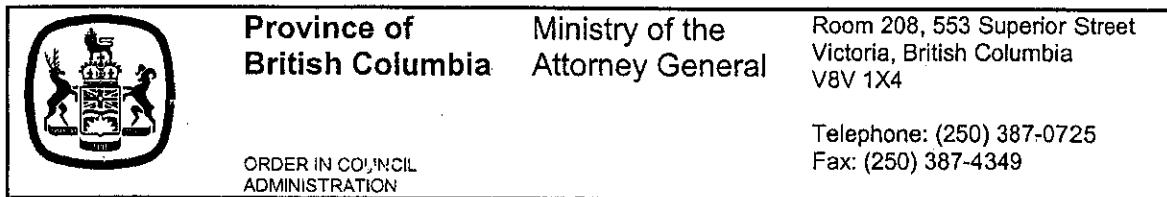
K:\SX\12\SolmeteX Proof of Service.doc

CERTIFICATE OF SERVICE

I hereby certify that on April 5, 2004, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: John M. Skenyon, counsel for Maximum Separation Systems, Inc., and I hereby certify that I have mailed by United States Postal Service the document to the following non CM-ECF participants: Jennifer L. Jolley and Rex B. Stratton, counsel for Maximum Separation Systems, Inc., Stratton Ballew, Suite 1313, 1218 Third Avenue, Seattle, Washington 98101.


Kurt S. Kusiak





10,700-20/Ohio/U.S.A.

2003-325

March 17, 2004

Mr. Brett A. Schatz
Wood, Herron @ Evans L.L.P.
2700 Carew Tower, 441 Vine Street
Cincinnati, Ohio 45202
U.S.A.

Dear Mr. Schatz:

Re: Service of Documents Pursuant to the Hague Convention on the Service Abroad of Judicial or Extra-Judicial Documents in Civil or Commercial Matters - Maximum Separation Systems Inc., 6588 Sooke Road, Victoria, BC V0S 1N0 Canada

The above-referenced documents have been served upon Maximum Separation Systems Inc., as requested pursuant to the terms and conditions of the Hague Convention on the Service Abroad of Judicial or Extrajudicial Documents in Civil or Commercial Matters.

The completed Certificate is enclosed along with supporting documents.

Also enclosed is a receipt in the amount of \$38.94 US.

Thank you.

Yours truly,

Barbara Emerson
Central Authority Administrator

Enclosures

RECEIVED
MARCH 29 AM 10:45
WOOD, HERRON & EVANS

CERTIFICATE

The undersigned authority has the honour to certify, in conformity with article 6 of the Convention,
1) that the document has been served *

- the (date) 15 - MARCH - 2004
- at (place, street, number) 1756 ISLAND Hwy. COLWOOD, B.C. CANADA.
- In one of the following methods authorized [*38] by article 5 --
 - (a) in accordance with the provisions of sub-paragraph (a) of the first paragraph of article 5 of the Convention *.
 - (b) in accordance with the following particular method *: OFFICER OF COMPANY
 - (c) by delivery to the addressee, who accepted it voluntarily *.

The documents referred to in the request have been delivered to:

- (identity and description of person) RICHARD CHILIBERI (OFFICER OF COMPANY)
- relationship to the addressee (family, business or other): _____

2) that the document has not been served, by reason of the following facts *: //

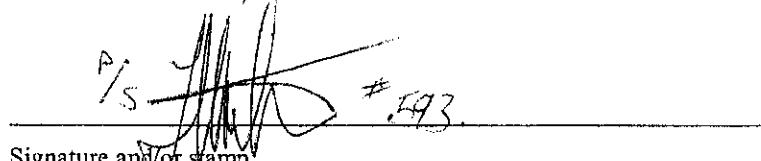
In conformity with the second paragraph of article 12 of the Convention, the applicant is requested to pay or reimburse the expenses detailed in the attached statement *

Annexes

Documents returned: SUMMONS AND EXHIBIT

In appropriate cases, documents establishing the service: _____

Done at COLWOOD, B.C., the 15 day of MARCH, 2004.


Signature and/or stamp.

* Delete if inappropriate.

Senior Deputy Sheriff
Ministry of Attorney General
Western Communities Courthouse
1756 Island Highway
Victoria, British Columbia
V9B 1H8

REQUEST FOR SERVICE ABROAD OF JUDICIAL OR EXTRAJUDICIAL DOCUMENTS

Convention on the service abroad of judicial and extrajudicial documents in civil or commercial matters, signed at The Hague, the 15th of November 1965.

Identity and address [*37] of the applicant:

Brett A. Schatz

Wood, Herron & Evans, L.L.P.

2700 Carew Tower, 441 Vine Street

Cincinnati, Ohio 45202

Plaintiff's Attorneys

Address of receiving authority:

Ms. Barbara Emerson
OIC Office
Ministry of Attorney General
Room 208
553 Superior Street
Victoria, British Columbia
V8V 1X4

The undersigned applicant has the honour to transmit -- in duplicate -- the documents listed below and, in conformity with article 5 of the above-mentioned Convention, requests prompt service of one copy thereof on the addressee, i.e., (identity and address)

Maximum Separation Systems, Inc., 6588 Sooke Road, Sooke, British Columbia, Canada, V0S 1N0

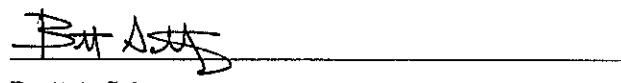
(b) in accordance with the following particular method (sub-paragraph (b) of the first paragraph of article 5) *:

Served personally on the company. Either Mr. Chris Bryant or other officer must be served.

The authority is requested to return or to have returned to the applicant a copy of the documents -- and of the annexes * -- with a certificate as provided on the reverse side.

List of documents: Summons and Complaint With Attachments

Done at Cincinnati, Ohio, the 10th day of March, 2004.


Brett A. Schatz

* Delete if inappropriate.

SUMMARY OF THE DOCUMENT TO BE SERVED

Convention on the service abroad of judicial and extrajudicial documents in civil or commercial matters, signed at The Hague, the 15th of November 1965

(article 5, fourth paragraph)

Name and address of the requesting authority:

**Brett A Schatz, Wood, Herron & Evans, L.L.P.
2700 Carew Tower, 441 Vince Street
Cincinnati, Ohio 45202
Service requested pursuant to Rule 4(f)(1) and 4(f)(2)(A), U.S. Federal Rules of Civil Procedure.**

JUDICIAL DOCUMENT **

Nature and purpose [*39] of the document:

**Complaint in The United States District Court For The District of
Massachusetts, Worcester Division, Civil Action No.: 04-cv-40024-NMG
SolmeteX, Inc. v. Maximum Separation Systems, Inc.**

Nature and purpose of the proceedings and, where appropriate, the amount in dispute:

**Declaratory judgment of non-infringement and invalidity
of U.S. Patent No. 6,692,636.**

Date and place for entering appearance **:

**Defendant is required to file a response to the Complaint
with the Court within 20 days after receiving the Summons and Complaint.**

* If appropriate, identity and address of the person interested in the transmission of the document.

** Delete if inappropriate.

COPIE CERTIFIEE CONFORME a L'ORIGINAL

La Haye, le 23 mai 1966

Le Conseiller des Traites au Ministere des Affaires Etrangeres des Pays-Bas,

PROF. DR. A. M. STUYT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
WORCESTER DIVISION

SOLMETEX, INC.)	Civil Action No.: 04-cv-40024-NMG
)	
Plaintiff,)	Judge: Gorton
)	
v.)	
)	
MAXIMUM SEPARATION)	AFFIDAVIT OF
SYSTEMS, INC.)	<u>BRETT A. SCHATZ</u>
)	
Defendant.)	

I, Brett A. Schatz, being duly sworn, declare the following.

1. I am not a party to this action, and am over the age of 18 years and reside in the state of Ohio;

2. On or about March 10, 2004, I forwarded by United Parcel overnight courier to the Ministry of the Attorney General for British Columbia copies of each of the following documents for personal service on Maximum Separation Systems, Inc.:

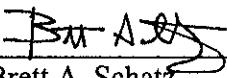
- (1) Complaint with Attachments;
- (2) Summons; and
- (3) Request for Service Abroad of Judicial or Extrajudicial

Documents.

3. On or about March 29, 2004, I, as an associate at law firm of Wood, Herron & Evans, L.L.P., and co-counsel for plaintiff SolmeteX, Inc. in this action, received from the British Columbia Ministry of the Attorney General, the executed Certificate for the Request For Service Abroad Of Judicial Or Extrajudicial Documents, attesting that Maximum Separation

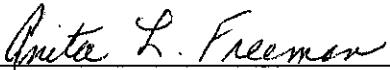
Systems, Inc. was personally served with the Summons and Complaint in the present action on March 15, 2004. A Copy of the executed certificate is attached hereto as Exhibit 1.

FURTHER AFFIANT SAYETH NAUGHT.


Brett A. Schatz

STATE OF OHIO)
)
 ss
COUNTY OF HAMILTON)

Subscribed and sworn to before me this 30th day of March, 2004.



Anita L. Freeman

(SEAL)



ANITA L. FREEMAN
Notary Public, State of Ohio
My Commission Expires
September 25, 2006